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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/581,924

Applicant(s)

MAZERIS, FERNANDO

Examiner

Son T. Nguyen

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24, 26-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4,6-7,10-17,20,22-24,26-27,29-30,34,37-38,40,43,46-48,50-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Burghardi et al. (2006/0041413A1).

For claim 1, Burghardi et al. teach a feeding system for feeding animals on a farm, comprising: an analyzer device (300) for measuring in real time or near real time an amount of at least one constituent of solid feed to be fed to said animals ; a feeding device for feeding said animals [0040]; and a control device (100), wherein the control device is configured to control the analyzer device to repeatedly measure the amount of the constituent of the solid feed at least once a day, wherein the amount of said constituent includes any one of a protein content, a fiber content, and a neutral detergent fiber (NDF) content [0096], and configured to control the feeding device to feed said animals repeatedly and at each instance based on the previous said repeatedly performed measurements.

For claim 2, Burghardi et al. teach wherein the control device is configured to control said analyzer device to measure the amount of said constituent of said solid feed immediately prior to the feeding of said animals [0025][0046]-[0049][0061]-[0066].

For claim 3, Burghardi et al. teach wherein the control device is configured to control said analyzer device to measure the amount of said constituent of said solid feed a plurality of times per day [0068][0070].

For claim 4, Burghardi et al. teach wherein said solid feed is ensiled feed [0129].

For claim 6, Burghardi et al. teach wherein the control device is configured to control said analyzer device to measure the amounts of a plurality of constituents of said solid feed, and configured to control said feeding device to feed said animals depending on the measurements of the amounts of the constituents of said solid feed [0025][0082]-[0087][0096]-[0098][0110]-[0111].

For claim 7, Burghardi et al. teach wherein the control device is configured to control said feeding device to perform said feeding depending on an average value of said repeatedly measured amounts of said constituent [0068][0111].

For claim 10, Burghardi et al. teach wherein the control device is a computer-based processing and control device provided for managing of said animals including controlling of the feeding of said animals, wherein said computer-based processing and control device includes: a database including updated information regarding feed consumption by said animals; is connected to receive said respective measured amounts of said constituent of said solid feed; is provided to calculate an amount of solid feed to be fed to said animals based on the performed measurements and said

updated information included in said database; and is connected to indicate to said feeding device said calculated amount of solid feed to be fed to said animals. [0022]

For claim 11, Burghardi et al. teach wherein the control device is configured to control said feeding device to feed said animals with mixed solid feed having a balanced composition depending on the performed measurements. [0025][0082]-[0087][0096]-[0098][0110]-[0111].

For claim 12, Burghardi et al. teach wherein the control device is configured to control said feeding device to feed said animals with solid feed having ensilage and concentrate and/or additives depending on the performed measurements. [0025][0082]-[0087][0096]-[0098][0110]-[0111].

For claim 13, Burghardi et al. teach wherein said animals are grouped in different groups, such that the control device is configured to control said feed device to feed different groups of animals with total mixed rations (TMR) of solid feed independently and in accordance with the performed measurements. [0026][0035][0038][0042][0086][0092].

For claim 14, Burghardi et al. teach wherein said animals are grouped in different groups depending on body condition and, provided that the animals are milking animals, depending on milk production, days in lactation, or number of lactations. [0028]-0030[0049][0079].

For claim 15, Burghardi et al. teach wherein said animals have a supply of partial mixed rations (PMR) of solid feed, including ensilage and concentrate, such that the control device is configured to control said feed device to feed each of said animals with

additional concentrate feed individually and in accordance on the performed measurements. [0096][0129]

For claim 16, Burghardi et al. teach wherein said animals are grouped in different groups, such that the control device is configured to control said feed device to (i) feed different groups of animals with roughage or ensilage depending on the performed measurements, and (ii) feed said animals with concentrate or additives individually and in accordance on the performed measurements. [0026][0035][0038][0042] [0086][0092].

For claim 17, Burghardi et al. teach wherein the control device is configured to control said feed device to feed different individuals of said animals with solid feed individually depending on the performed measurements. [0026][0035][0038][0042] [0086][0092].

For claim 20, Burghardi et al. teach a weighing machine or an optical device with image processing capabilities, provided for establishing in connection with said feeding, the actual feed consumption by said animals, wherein the control device is configured to control said feeding device to feed said animals depending on the established actual feed consumption by said animals. [0025][0037][0070][0096][0111].

For claim 22, Burghardi et al. teach a device for measuring a quality of manure from said animals, wherein the control device is configured to control said feeding device to feed said animals depending on the measured quality of manure from said animals. [0049][0057][0059][0080][0105][0114].

For claim 23, Burghardi et al. teach wherein the control device is configured to control said analyzer device to measure the amount of the constituent of the solid feed repeatedly and at least once a day automatically. [0053][0069][0070][0132].

For claim 24, Burghardi et al. teach wherein the control device is configured to control said feeding device to feed said animals repeatedly and at each instance depending on the last one of said repeatedly performed measurements automatically. [0053][0069][0070][0132].

For claims 26-27,37-38, the limitation has been explained in the above, thus, please see above.

For claims 29,40, Burghardi et al. teach wherein the analyzer device measures the amount of at least one constituent of solid feed to be feed to said animals at different locations in a feed supply device. [0040].

For claim 30, Burghardi et al. teach wherein the analyzer device measures the amount of at least one constituent of solid feed to be feed to said animals at different locations in a feed supply device. [0040].

For claims 34,43, Burghardi et al. teach wherein the analyzer device measures all of the constituents of the solid feed to provide more accurate ration balancing and maximized production. [0025][0039][0080][0092][0096][0111].

For claim 46, Burghardi et al. teach wherein the analyzer device further samples individual ingredients of a food mixture which make up the solid feed, wherein the sampling of the individual ingredients of the food mixture is performed before the individual ingredients are mixed together. [0112][0127].

For claim 47, Burghardi et al. teach wherein the mixing is performed based on a result of a measurement of the samples. [0112][0113].

For claim 48, Burghardi et al. teach wherein the analyzer device measures the amount of the at least one constituent of the solid feed to be fed to said animals at different locations within a storage device. [0040].

For claim 50, Burghardi et al. teach wherein different groups of animals are fed with total mixed rations of feed, independently, and at each instance, depending on the measured amount of the at least one constituent of solid feed. [0025][0026][0038][0092].

For claim 51, Burghardi et al. teach wherein the measured constituent include any one of vitamins, minerals, moisture, fat, starch, TKN, crude fiber, acid detergent fiber (ADF), and lignin. [0111][0118][0123][0129].

For claim 52, Burghardi et al. teach wherein at least the animals, the analyzer device, and the feeding device are colocated. [0111].

For claim 53, Burghardi et al. teach wherein at least the animals, the analyzer device, and the feeding device are in situ. [0111].

For claim 54, Burghardi et al. teach wherein the amount of the at least one constituent of the solid feed is measured and the animals are fed in real time in situ. [0070][0111].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-9,35-36,44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burghardi et al. as applied to claims 1,26 above, and further in view of Beck (2005/0000457).

Burghardi et al. are silent about wherein said analyzer device is a spectroscopic device/near infrared (NIR) instrument for quantitative chemical analysis.

Beck teaches a feeding system for feeding animals wherein said analyzer device is a spectroscopic device/near infrared (NIR) instrument for quantitative chemical analysis ([0008][0039][0043]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a spectroscopic device as taught by Beck in the system of Burghardi et al., in order to provide a nondestructive, rapid, accurate and precise determination of the chemical composition of forages and feedstuffs for the animals.

5. Claims 18-19,31-33,41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burghardi et al. as applied to claims 1,26 above, and further in view of Birk (7308866).

Burghardi et al. are silent about wherein said feeding device is a vehicle filled with said solid feed, and said analyzer device is provided at said vehicle for measuring the amount of said constituent of said solid feed; wherein said feeding device is an indoor feed wagon mounted on a raft in a ceiling, for automatic feeding.

Birk teaches a feeding system for feeding animals on a farm wherein said feeding device is a feed wagon 38, preferably an in-door feed wagon mounted on a raft in a ceiling, for automatic feeding. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a feed wagon as taught by Birk in the system of Burghardi et al., in order to automatically dropping feed into a feeding table, manger, etc. without having to use a vehicle.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burghardi et al. as applied to claim 1 above, and further in view of Palmer (4517923).

Burghardi et al. are silent about wherein said animals are milking animals, further comprising a device provided for measuring a quality or a quantity of milk from said milking animals, and the control device is configured to control said feeding device to feed said milking animals depending on the measured quality or quantity of milk from said milking animals.

Palmer teaches a feeding system for feeding animals wherein said animals are milking animals, and wherein said arrangement further comprising a device provided for measuring a quality or a quantity of milk from said milking animals, and a control device is provided for controlling said feeding device to feed said milking animals depending on the measured quality or quantity of milk from said milking animals (col.2,lines 65-68,col. 3,lines 23-27,col. 4,lines 1-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a device provided for measuring a quality or a quantity of milk from said milking animals, and a control device is provided

for controlling said feeding device to feed said milking animals depending on the measured quality or quantity of milk from said milking animals as taught by Palmer in the system of Burghardi et al., in order to provide appropriate feed ration in relation to the animal's milk production, if the animal of choice is that of a milking animal, so as to provide proper nutrition for the animal.

7. Claims 28,39,49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burghardi et al. (as above).

For claims 28,39, Burghardi et al. are silent about wherein the control device is configured to control said analyzer device to measure the amount of said constituent of said solid feed at least three times per day. It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the control device of Burghardi et al. to control said analyzer device to measure the amount of said constituent of said solid feed at least three times per day, depending on the animal's size and condition for nutritional need.

For claim 49, Burghardi et al. are silent about an optical device with image processing capabilities for measuring the actual feed consumption in connection with each of the feedings. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ an optical device with image processing capabilities for measuring the actual feed consumption in connection with each of the feedings in the system of Burghardi et al., depending on the user's preference as to what type of measuring device he/she wishes to employ.

Response to Arguments

8. Applicant's arguments with respect to claims 1-24,26-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son T. Nguyen/
Primary Examiner, Art Unit 3643